



**OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY  
ENVIRONMENTAL COMPLAINTS AND LOCAL SERVICES DIVISION**

**IN THE MATTER OF:  
PITTSBURG COUNTY RW&SD #20,**

**RESPONDENT,**

**ENFORCEMENT NO. 151481,**

**FACILITY NO. S-30601.**

OKLAHOMA  
DEPT. OF ENVIRONMENTAL QUALITY

APR 02 2018

CASE NO. 18-023

FILED BY J. M. Johnson  
HEARING CLERK

**ORDER**

The parties to this case, the Oklahoma Department of Environmental Quality ("DEQ") and Pittsburg County Rural Water and Sewer District #20 ("Respondent"), agree to this Order ("Order") to resolve certain environmental compliance issues.

This Order supersedes and closes the Notice of Violation NOV No. 17-ECLS-NOV-069 ("NOV") issued by DEQ on October 26, 2017.

**FINDINGS OF FACT**

1. Respondent owns and operates a total retention lagoon facility ("facility"), Facility No. S-30601, which serves the residents of Carlton Landing located in Pittsburg County, Oklahoma. The facility is a three-cell total retention lagoon system.
2. On August 25, 2017, DEQ personnel conducted a compliance monitoring inspection ("inspection") at the facility. During the inspection, DEQ personnel observed:
  - a. The facility is not being operated in accordance with the permit. The second lagoon cell has been without a liner for over a year.

- b. The facility has a line extension and unpermitted lift station in a manhole vault serving a bathroom and food trucks. The manhole vault also has an unpermitted discharge of groundwater into a drainage creek that flows directly into Lake Eufaula.
- c. The flow meter is not operational at times.
- d. Access is not controlled; there is a three strand barb wire fence around the lagoon with open gates and holes in the fence.
- e. Manholes throughout Carlton Landing have erosion allowing storm water to drain directly into the collection system.
- f. The grass needs to be mowed and a few small willow trees in the dike need to be removed.
- g. The third lagoon cell does not have any freeboard and is bypassing over the dike at several locations.
- h. The liner in the third lagoon cell has multiple holes and tears below the water line allowing for seepage.
- i. Bypass from the third lagoon cell not reported.
- j. Bypass and I&I issues are not being addressed.
- k. The main lift station needs fencing to provide access control.
- l. The flow data on the MOR is incomplete, data is missing due to flow meter faults.

3. On August 25, 2017, DEQ personnel issued a copy of the Inspection Report, DEQ Form # 619-002, to the facility, citing the above-described observations/violations and gave Respondent until September 11, 2017, to correct the violations.

4. On September 11, 2017, DEQ personnel conducted a follow-up inspection at the facility. During the inspection, DEQ personnel observed:

- a. The facility is not being operated in accordance with the permit. The second lagoon cell has been without a liner for over a year.
- b. The facility has a line extension and unpermitted lift station in a manhole vault serving a bathroom and food trucks. The manhole vault also has an unpermitted discharge of groundwater into a drainage creek that flows directly into Lake Eufaula.
- c. A surge protector had been installed on the flow meter to eliminate inaccuracies caused by power surges during storm events.
- d. There is a three strand barb wire fence around the lagoon. Gates had been installed since the last inspection to restrict access.
- e. Manholes throughout Carlton Landing have erosion allowing storm water to drain directly into the collection system.
- f. The grass needs to be mowed and a few small willow trees in the dike need to be removed.
- g. The third lagoon cell has less than 1 ft. of freeboard.
- h. The liner in the third lagoon cell has multiple holes and tears below the water line allowing for seepage.
- i. The bypass from the third lagoon cell, noted on the previous inspection, was not called in; however, a bypass report was submitted.
- j. The bypass and I&I issues are not being addressed.

k. The main lift station did not have security fencing at the time of inspection, however the facility is working on getting it put up.

l. The flow data on the MOR is incomplete, data is missing due to flow meter faults.

5. On September 11, 2017, DEQ personnel issued a copy of the Inspection Report, DEQ Form # 619-002, to the facility, citing the above-described observations/violations.

6. On October 26, 2017, DEQ issued NOV No. 17-ECLS-NOV-069 which Respondent received on November 2, 2017 as evidenced by an affidavit of personal service. The NOV required Respondent to submit a written response to DEQ detailing the specific actions Respondent had taken and any additional actions Respondent planned to take to prevent reoccurrence of the violations identified in the NOV.

7. On November 13, 2017, DEQ received a written response to the NOV. The response listed items the facility had completed and had been working on completing to bring the facility back into compliance.

8. On December 6, 2017, DEQ personnel conducted an inspection at the facility. During the inspection, DEQ personnel observed:

- a. The facility is not being operated in accordance with the permit. The second lagoon cell has been without a liner for over a year.
- b. The unpermitted lift station in a manhole vault serving a bathroom and food trucks has been removed. The manhole vault is still in the ground but no plumbing in the vault. There is still a small grinder pump in place for the bathroom but the sump pump that was used to discharge the groundwater had been removed. The food trucks are currently removed from service.

- c. The surge protector is in use on the flow meter to prevent inaccuracies caused by power surges from storm events. The flow meter probes are cleaned regularly to prevent inaccuracies.
- d. The three strand barb wire fence around the lagoon is being maintained and gates remain closed to restrict access.
- e. Manholes throughout Carlton Landing have erosion allowing storm water to drain directly into the collection system. Several manholes need to be raised or sealed.
- f. The grass has been mowed and the trees have been removed since the last inspection.
- g. The third lagoon cell has roughly 1.5 ft. of freeboard.
- h. The liner in the third lagoon cell has multiple holes and tears below the water line allowing for seepage. Some have been repaired since the last inspection, however there are still several spots that need to be addressed.
- i. There were no bypasses occurring at time of inspection.
- j. The bypass areas and I&I issues are not being addressed; however, a plan has been prepared by the district but not started.
- k. The security fencing is now in place around the main lift station.
- l. The flow data submitted for the month of November is complete; however, there are possible accuracy issues due to probe problems. MOR submitted timely, but needs to be accurate.

9. On December 6, 2017, DEQ personnel issued a copy of the Inspection Report, DEQ Form # 619-002, to the facility, citing the above-described observations/violations.

10. On January 25, 2018, DEQ personnel met with Respondent to discuss the violations and what needs to be done to come into compliance. Consent Order terms were also discussed during the meeting.

11. Respondent and DEQ agree that it is beneficial to resolve this matter promptly and by agreement. Therefore, the parties agreed to the terms of this Consent Order on February 17, 2018.

12. Respondent and DEQ waive the filing of a petition or other pleading, and Respondent waives the right to a hearing.

### **CONCLUSIONS OF LAW**

13. DEQ has regulatory jurisdiction and authority in this matter, and Respondent is subject to the jurisdiction and authority of DEQ under 27A O.S. § 1-3-101(B), 27A O.S. § 2-6-401, et seq., and Oklahoma Administrative Code ("OAC") Title 252, Chapter(s) 619.

14. Respondent and DEQ are authorized by 75 O.S. § 309(E) and 27A O.S. § 2-3-506(B) to resolve this matter by agreement.

15. **27A O.S. § 2-6-205(A) states:**

It shall be unlawful for any facility, activity or entity regulated by the Department of Environmental Quality pursuant to the Oklahoma Pollutant Discharge Elimination System Act to discharge any pollutant into waters of the state or elsewhere without first obtaining a permit from the Executive Director.

Respondent violated 27A O.S. § 2-6-205(A) by discharging untreated wastewater into waters of the state without first obtaining a permit from DEQ. Failure to comply with this statute can allow untreated wastewater to enter the waters of the state which could result in oxygen depletion and subsequent injury or death of aquatic organisms.

16. **OAC 252:619-1-4(a) states:**

The permittee shall ensure that the total retention lagoon system is operated in compliance with the terms of the DEQ-issued construction permit and the requirements of this Chapter. When in conflict, the terms of the permit shall supersede the requirements of this Chapter.

Respondent violated OAC 252:619-1-4(a) by failing to maintain the liner in the second lagoon cell.

Compliance with this rule assures that the facility is maintained/operated within the system's capabilities to provide optimal treatment.

17. **OAC 252:619-1-4(d) states:**

The permittee shall operate and maintain the total retention lagoon system so that no part of the system bypasses or discharges wastes or wastewater. All such bypasses and/or discharges shall be considered a violation of this Chapter and be subject to enforcement as an unpermitted discharge to waters of the State in violation of the Oklahoma Pollutant Discharge Elimination System Act.

- (1) Reporting requirement. The permittee shall ensure that any and all bypasses and/or discharges from a total retention lagoon system are reported to DEQ at (800) 522-0206 within 24-hours of the incident and that a completed and signed DEQ Form 619-001 "Self Reporting Wastewater Bypass Form" is submitted to DEQ within five (5) days of the incident.
- (2) Required response. Whenever a bypass or discharge occurs, the permittee shall ensure that immediate action is taken to stop, contain, clean up and prevent recurrence of the bypass or discharge.

Respondent violated OAC 252:619-1-4(d) by failing to maintain the total retention lagoon system so that unpermitted bypasses or discharges are prevented, allowing water to discharge from a manhole vault without obtaining a permit, and failing to report bypass and/or discharge within 24-hours of the incident.

18. **OAC 252:619-1-4(f) states:**

The permittee shall complete a DEQ Form 619-001 "Total Retention Lagoon

Monthly Operation Report" ("MOR") each month. The permittee shall ensure that the MOR is kept current, is retained for three (3) years and is made available for review upon request by DEQ. Each MOR shall include:

- (1) the estimated monthly flow to the total retention lagoon;
- (2) the size of the population served by the total retention lagoon system;
- (3) the date of each site visit to the total retention lagoon system;
- (4) any maintenance performed on the total retention lagoon system; and
- (5) the results of any voluntary or DEQ-ordered sampling and analyses of the wastewater in the total retention lagoon system.

Respondent violated OAC 252:619-1-4(f) by failing to maintain complete and accurate MORs.

Compliance with this rule provides assurance that the lagoon system is being operated and maintained properly.

19. **OAC 252:619-3-1(c) states:**

The permittee shall provide erosion protection for all parts of the collection system located in or near waterways or flood plains.

Respondent violated OAC 252:619-3-1(c) by failing to adequately protect the manholes to prevent storm water from entering into the collection system. Failure to comply with this rule could cause damage to the collection system allowing untreated wastewater to discharge into waters of the state or increase risk of public exposure which could cause transmission of infectious diseases.

20. **OAC 252:619-3-2(b) states:**

The permittee shall ensure that the lagoon has a minimum of three feet (3') of freeboard, unless otherwise specified in the permit.

Respondent violated OAC 252:619-3-2(b) by failing to maintain a minimum of three (3) feet of freeboard in the third lagoon cell. Failure to comply with this rule increases the risk of an unpermitted discharge of untreated wastewater from the lagoons during high flow or rain events, and lagoon dike failure.

21. **OAC 252:619-3-2(c) states:**



The permittee shall, at all times, maintain the integrity of the liner or seal of the total retention lagoon to prevent seepage in excess of five hundred gallons per acre per day (500 gal/acre/day). No action shall take place during the use, maintenance, or operation of the lagoon that would destroy or diminish the effectiveness of any liner or seal, or increase the permeability of the liner or seal. Whenever seepage in excess of five hundred gallons per acre per day (500 gal/acre/day) from the lagoon is suspected or discovered, the permittee shall ensure that the discharge is reported to DEQ at (800) 522-0206 within 24-hours of the incident and that a completed and signed DEQ Form 619-001 "Self Reporting Wastewater Bypass Form" is submitted to DEQ within five (5) days of the incident.

Respondent violated OAC 252:619-3-2(c) by failing to maintain the synthetic liner in the second lagoon cell and failing to repair holes in the synthetic liner of the third lagoon cell. Failure to comply with this requirement could allow untreated water to be discharged into the groundwater.

### ORDER

22. Based on the above paragraphs, Respondent and DEQ agree, and the Executive Director orders as follows:

TASK	DUE DATE
a. Respondent agrees to take steps necessary to eliminate and prevent bypasses from the total retention lagoon system. If a bypass does occur, Respondents agree to report to DEQ within twenty-four (24) hours of the occurrence by calling the hotline at 1-800-522-0206.	Immediately
b. Respondent agrees to continue recording the daily flow data along with daily rainfall totals and submit the data to DEQ by the 10 <sup>th</sup> day of each month.	Ongoing
c. Respondent agrees to begin conducting a sanitary sewer evaluation survey ("SSES") including the inspection of each manhole in the entire collection system.	May 1, 2018
d. Respondent agrees to complete the SSES of the entire collection system.	July 15, 2018

e. Respondent agrees to submit the findings/summary of the SSES along with the collection system map showing the location of each manhole, condition of each manhole along with pictures, and the location of any deficiencies found in the collection system.	August 15, 2018
f. Respondent agrees to repair/replace the synthetic liner in the lagoon system.	September 15, 2018
g. Respondent agrees to submit a schedule to DEQ to correct the deficiencies identified during the SSES to be used as a basis for an addendum to this Order.	September 15, 2018
h. Respondent agrees to submit an approvable engineering report in accordance with OAC 252:656 and the compliance schedule in the discharge permit, No. OK0100625 for the proposed wastewater treatment system.	June 1, 2018 (per discharge permit, No. OK0100625 compliance schedule)
i. Respondent agrees to submit approvable plans and specifications, an application for a construction permit, and the associated fees for the construction proposed in the approved engineering report in accordance with the compliance schedule in the discharge permit, No. OK0100625.	August 1, 2018 (per discharge permit, No. OK0100625 compliance schedule)

23. The Oklahoma Environmental Quality Code, 27A O.S. §§ 2-3-502(B) and (K), authorizes DEQ to seek penalties of up to Ten Thousand Dollars (\$10,000.00) per day for each violation of the Code and the associated rules. Based on the facts and circumstances of this case, DEQ assesses a total penalty of EIGHT THOUSAND FOUR HUNDRED DOLLARS (\$8,400.00). Respondents shall pay a cash penalty in the amount of FIVE THOUSAND DOLLARS (\$5,000.00) within **30 days** of the effective date of this order. DEQ agrees to *waive*

THREE THOUSAND FOUR HUNDRED DOLLARS (\$3,400.00) upon successful completion of the tasks listed in Paragraph 21 according to the following schedule:

<b>TASK</b>	<b>AMOUNT OF PENALTY WAIVED PER TASK COMPLETION</b>
a.	NA
b.	NA
c.	\$200
d.	\$1,200
e.	\$500
f.	\$1,000
g.	\$500
h.	NA
i.	NA

If Respondent fails to complete the tasks by the scheduled due date, the allocated portion of the deferred penalty becomes immediately due and payable.

24. Respondent agrees that within thirty (30) days of receiving written notification from DEQ that the above-stated penalty is not going to be waived due to Respondent's noncompliance with this Order, Respondent agrees to pay that amount to DEQ. Payment shall be by check or money order payable to the Oklahoma Department of Environmental Quality (or ODEQ), showing the Case Number of this Order, and delivered to:

Accounts Receivable  
Financial & Human Resources Management  
Department of Environmental Quality  
P.O. Box 2036  
Oklahoma City, OK 73101-2036

25. If Respondent fails to comply with any of the tasks listed in Paragraph 21 of this Order, Respondent agrees to pay DEQ FIVE THOUSAND DOLLARS (\$5,000.00) for each day of noncompliance.

26. If DEQ notifies Respondent that Respondent is not in compliance with this Order and that an additional penalty is being assessed, Respondent may request a hearing to contest the finding of noncompliance. The notification from DEQ will specify how to request a hearing.

27. After the execution of this Order, if Respondent bypasses or discharges from the facility, DEQ may issue an Assessment Order assessing a penalty for the bypass or discharge. Any penalty assessed will be based upon the severity and circumstances of the bypass or discharge.

28. If Respondent fails to pay any penalty, DEQ may bring a separate action for collection of the penalty in district court. An action by DEQ for the collection of a penalty does not affect Respondent's duty to complete the tasks required by this Order.

#### **GENERAL PROVISIONS**

29. Respondent agrees to perform the requirements of this Order within the time frames specified unless performance is prevented or delayed by events which are a "force majeure." For purposes of this Order, a force majeure event is defined as any event arising from causes beyond the reasonable control of Respondent or Respondent's contractors, subcontractors or laboratories which delays or prevents the performance of any obligation under this Order. Examples are vandalism; fire; flood; labor disputes or strikes; weather conditions which prevent or seriously impair construction activities; civil disorder or unrest; and "acts of God." Force majeure events do *not* include increased costs of performance of the tasks agreed to in this Order, or changed economic circumstances. Respondent must notify DEQ in writing within fifteen (15) days after Respondent

knows or should have known of a force majeure event that is expected to cause a delay in achieving compliance with any requirement of this Order. Failure to submit notification within fifteen (15) days waives the right to claim force majeure.

30. Upon their approval by DEQ, any final reports, plans, specifications, schedules and attachments required under this Order are incorporated into it and enforceable under it. Failure of Respondent to respond within a reasonable time to any errors, deficiencies or other regulatory requirements identified by DEQ is a violation of this Order.

31. No informal advice, guidance, suggestions or comments by employees of DEQ regarding reports, plans, specifications, schedules, and other writings affect Respondent's obligation to obtain written approval by DEQ, when required by this Order.

32. Respondent agrees to allow agents of DEQ entry onto Respondent's property, at reasonable times and without advance notice, for the purposes of inspecting, sampling, testing, records review and other authorized activities to assess compliance with Oklahoma statutes and rules and this Order.

33. "Approvable," as used in this Order, means an Engineering Report and/ or Plans and Specifications that meets all the requirements in OAC 252:656 and has/ have been submitted by the deadline stated in Paragraph 21.

34. Unless otherwise specified, any report, notice or other communication required under this Order must be in writing and must be sent to:

**For the Department of Environmental Quality:**

Elizabeth Denning, Engineer Intern  
Environmental Complaints and Local Services Division  
Oklahoma Department of Environmental Quality  
P.O. Box 1677  
Oklahoma City, OK 73101-1677

**For Respondent(s):**

Charles D. Kilburn  
Project Manager,  
Carlton Landing Enterprises  
29 Water Street  
Carlton Landing, OK 74432

35. This Order is enforceable as a final order of the Executive Director of DEQ. DEQ retains jurisdiction of this matter for the purposes of interpreting, implementing and enforcing the terms and conditions of this Order and for the purpose of resolving disputes.

36. Nothing in this Order limits DEQ's right to take enforcement action for violations discovered or occurring after the effective date of this Order.

37. Nothing in this Order excuses Respondent from Respondent's obligation to comply with all applicable federal, state and local statutes, rules and ordinances. Respondent and DEQ agree that the provisions of this Order are considered severable, and if a court of competent jurisdiction finds any provisions to be unenforceable because they are inconsistent with state or federal law, the remaining provisions will remain in full effect.

38. The provisions of this Order apply to and bind Respondent and DEQ and their officers, directors, employees, agents, successors and assigns. No change in the ownership or corporate status of Respondent will affect Respondent's responsibilities under this Order.

39. Compliance with the terms and conditions of this Order fully satisfies Respondent's liability to DEQ for all items of noncompliance in this Order. If Respondent satisfies the requirements of this Order, DEQ will not pursue any other remedy, sanction or relief that might otherwise be available to address the issues of noncompliance in this Order. Nothing in this Order shall be deemed to satisfy Respondent's liability, if any, for actions or remedies not within the scope of authority of DEQ.

40. Respondent and DEQ agree that the venue of any action in district court for the purposes of interpreting, implementing and enforcing this Order will be Oklahoma County, Oklahoma.

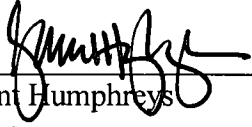
41. The requirements of this Order will be considered satisfied and this Order terminated when Respondent receives written notice from DEQ that Respondent has demonstrated that all the terms of the Order have been completed to the satisfaction of DEQ, and that any assessed penalty has been paid.

42. Respondent and DEQ may amend this Order by mutual consent. Such amendments must be in writing and the effective date of the amendments will be the date on which they are filed by DEQ.

43. The individuals signing this Order certify that they are authorized to sign it and to legally bind the parties they represent.

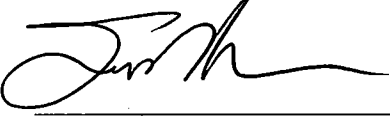
44. This Order becomes effective on the date of the latest signature below.

**FOR RESPONDENT:**

  
\_\_\_\_\_  
Grant Humphreys  
Manager

3/26/18  
Date

**OKLAHOMA DEPARTMENT  
OF ENVIRONMENTAL QUALITY:**

  
\_\_\_\_\_  
Scott A. Thompson  
Executive Director

4-2-18  
Date



SCOTT A. THOMPSON  
Executive Director



OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

MARY FALLIN  
Governor

October 26, 2017

***CERTIFIED MAIL, RETURN RECEIPT REQUESTED***

Mike Kerney  
Pittsburg Co. RW&SD #20  
Carlton Landing  
P.O. Box 302  
Eufaula, OK 74432

Case No. 17-ECLS-NOV-069  
Tracking No.  
7016 3560 0000 0434 9622

RE: TRL Operation and Maintenance Violations in Pittsburg County, Oklahoma  
Facility No. S-30601  
Enforcement No. 151481  
17-ECLS-NOV-069

**NOTICE OF VIOLATION**

Pursuant to the Oklahoma Environmental Quality Code, 27A O.S. § 2-3-502(A) and the Oklahoma Administrative Code ("OAC"), this is to provide you with a notice of a finding by the Department of Environmental Quality – Environmental Complaints and Local Services ("DEQ") of alleged non-compliance with statute(s), and/or rule(s).

On August 25, 2017, DEQ personnel went to Pittsburg Co. RW&SD #20, Facility No. S-30601 ("facility") and performed a compliance monitoring inspection ("inspection"). The facility is located in Pittsburg County, Oklahoma, and is owned/operated by Carlton Landing. The facility is a three cell total retention lagoon system.

During the inspection, DEQ personnel observed:

- The facility is not being operated in accordance with the permit. The second lagoon cell has been without a liner for over a year.
- The facility has a line extension and unpermitted lift station in a manhole vault serving a bathroom and food trucks. The manhole vault also has an unpermitted discharge of groundwater into a drainage creek that flows directly into Lake Eufaula.
- The flow meter is not operational at times.
- Access is not controlled; there is a three strand barb wire fence around the lagoon with open gates and holes in the fence.
- Manholes throughout Carlton Landing have erosion allowing storm water to drain directly into the collection system.
- The grass needs to be mowed and a few small willow trees in the dike need to be removed.



- The third lagoon cell does not have any freeboard and is bypassing over the dike at several locations.
- The liner in the third lagoon cell has multiple holes and tears below the water line allowing for seepage.
- Bypass from the third lagoon cell not reported.
- Bypass and I&I issues are not being addressed.
- The main lift station needs fencing to provide access control.
- The flow data on the MOR is incomplete, data is missing due to flow meter faults.

On August 25, 2017, DEQ provided a copy of the Inspection Report (DEQ Form #619-002) to the facility. The inspection report identified the above-described violations/observations and required compliance by September 11, 2017.

On September 11, 2017, DEQ personnel went to the facility and performed a follow-up inspection. During the inspection, DEQ personnel observed:

- The facility is not being operated in accordance with the permit. The second lagoon cell has been without a liner for over a year.
- The facility has a line extension and unpermitted lift station in a manhole vault serving a bathroom and food trucks. The manhole vault also has an unpermitted discharge of groundwater into a drainage creek that flows directly into Lake Eufaula.
- A surge protector had been installed on the flow meter to eliminate inaccuracies caused by power surges during storm events.
- There is a three strand barb wire fence around the lagoon. Gates had been installed since the last inspection to restrict access.
- Manholes throughout Carlton Landing have erosion allowing storm water to drain directly into the collection system.
- The grass needs to be mowed and a few small willow trees in the dike need to be removed.
- The third lagoon cell has less than 1 ft. of freeboard.
- The liner in the third lagoon cell has multiple holes and tears below the water line allowing for seepage.
- The bypass from the third lagoon cell was not called in, however, a bypass report was submitted.
- The bypass and I&I issues are not being addressed.
- The main lift station did not have security fencing at the time of inspection, however, the facility is working on getting it put up.
- The flow data on the MOR is incomplete, data is missing due to flow meter faults.

On September 11, 2017, DEQ provided a copy of the Inspection Report (DEQ Form #619-002) to the facility. The inspection report identified the above-described violations/observations.

## ISSUE

### **27A O.S. § 2-6-105(A) states:**

It shall be unlawful for any person to cause pollution of any waters of the state or to place or cause to be placed any wastes in a location where they are likely to cause pollution of any air, land or waters of the state. Any such action is hereby declared to be a public nuisance.

### **27A O.S. § 2-6-205(A) states:**

It shall be unlawful for any facility, activity or entity regulated by the Department of Environmental Quality pursuant to the Oklahoma Pollutant Discharge Elimination System Act to discharge any pollutant into waters of the state or elsewhere without first obtaining a permit from the Executive Director.

### **OAC 252:619-1-4(d) states:**

The permittee shall operate and maintain the total retention lagoon system so that no part of the system bypasses or discharges wastes or wastewater. All such bypasses and/or discharges shall be considered a violation of this Chapter and be subject to enforcement as an unpermitted discharge to waters of the State in violation of the Oklahoma Pollutant Discharge Elimination System Act.

- (1) Reporting requirement. The permittee shall ensure that any and all bypasses and/or discharges from a total retention lagoon system are reported to DEQ at (800) 522-0206 within 24-hours of the incident and that a completed and signed DEQ Form 619-001 "Self Reporting Wastewater Bypass Form" is submitted to DEQ within five (5) days of the incident.
- (2) Required response. Whenever a bypass or discharge occurs, the permittee shall ensure that immediate action is taken to stop, contain, clean up and prevent recurrence of the bypass or discharge.

DEQ alleges that the facility is in violation of 27A § 2-6-105(A), 27A O.S. § 2-6-205(A), and OAC 252:619-1-4(d), because it has not been maintaining the total retention lagoon to prevent unpermitted discharges and for allowing water to discharge from a manhole vault without obtaining a permit. This failure has caused untreated wastewater to be discharged into the environment. Such discharges are also known as "bypasses."

### **OAC 252:619-1-4(f) states:**

The permittee shall complete a DEQ Form 619-001 "Total Retention Lagoon Monthly Operation Report" ("MOR") each month. The permittee shall ensure that the MOR is kept current, is retained for three (3) years and is made available for review upon request by DEQ. Each MOR shall include:

- (1) the estimated monthly flow to the total retention lagoon;
- (2) the size of the population served by the total retention lagoon system;
- (3) the date of each site visit to the total retention lagoon system;

- (4) any maintenance performed on the total retention lagoon system; and
- (5) the results of any voluntary or DEQ-ordered sampling and analyses of the wastewater in the total retention lagoon system.

**DEQ alleges the facility is in violation of OAC 252:619-1-4(f) for incomplete MORs due to frequent flow meter faults.**

**OAC 252:619-1-3 states:**

Pursuant to OAC 252:656, permits are required for the construction or modification of any non-industrial wastewater total retention lagoon system.

**DEQ alleges the facility is in violation of OAC 252:619-1-3 for constructing a lift station and line extension without obtaining a permit.**

**OAC 252:619-1-4(a) states:**

The permittee shall ensure that the total retention lagoon system is operated in compliance with the terms of the DEQ-issued construction permit and the requirements of this Chapter. When in conflict, the terms of the permit shall supersede the requirements of this Chapter.

**DEQ alleges the facility is in violation of OAC 252:619-1-4(a) for failing to maintain a liner in the second lagoon cell.**

**OAC 252:619-3-1(c) states:**

The permittee shall provide erosion protection for all parts of the collection system located in or near waterways or flood plains.

**DEQ alleges the facility is in violation of OAC 252:619-3-1(c) for failing to maintain the manholes to prevent storm water from entering into the collection system.**

**OAC 252:619-3-1(d) states:**

The permittee shall ensure that pump stations are properly maintained and operated by doing the following:

- (1) Securing pump stations to prevent unauthorized access.
- (2) Maintaining the pumps in working condition.
- (3) Keeping the screens free of debris to prevent clogging.
- (4) Maintaining the required alarms in working order.
- (5) Maintaining the required back-up generators and/or portable engine driven pumps in working order.
- (6) Maintaining a complete set of operational instructions, emergency procedures and maintenance schedules.

**DEQ alleges the facility is in violation of OAC 252:619-3-1(d) for failing to secure the main lift station to prevent unauthorized access.**

**OAC 252:619-3-2(a)(3) states:**

The permittee shall prevent erosion of the lagoon by removing trees and deep-root vegetation from the dikes and bottom of the lagoon in a timely manner to maintain the integrity and stability of the lagoon

**DEQ alleges the facility is in violation of OAC 252:619-3-2(a)(3) for failing to keep the lagoon dikes mowed and free from tree growth.**

**OAC 252:619-3-2(b) states:**

The permittee shall ensure that the lagoon has a minimum of three feet (3') of freeboard, unless otherwise specified in the permit

**DEQ alleges the facility is in violation of OAC 252:619-3-2(b) for failing to maintain a minimum of three feet of freeboard in the third lagoon cell.**

**OAC 252:619-3-2(c) states:**

The permittee shall, at all times, maintain the integrity of the liner or seal of the total retention lagoon to prevent seepage in excess of five hundred gallons per acre per day (500 gal/acre/day). No action shall take place during the use, maintenance, or operation of the lagoon that would destroy or diminish the effectiveness of any liner or seal, or increase the permeability of the liner or seal. Whenever seepage in excess of five hundred gallons per acre per day (500 gal/acre/day) from the lagoon is suspected or discovered, the permittee shall ensure that the discharge is reported to DEQ at (800) 522-0206 within 24-hours of the incident and that a completed and signed DEQ Form 619-001 "Self Reporting Wastewater Bypass Form" is submitted to DEQ within five (5) days of the incident.

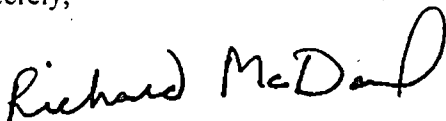
**DEQ alleges the facility is in violation of OAC 252:619-3-2(c) for failing to maintain a liner in the second lagoon cell and failing to repair holes in the liner in the third lagoon cell.**

It is your duty to correct the violations referenced above by taking whatever immediate corrective action is necessary to prevent the recurrence of the violation(s) cited herein. Further, within fifteen (15) days of receipt of this Notice of Violation ("NOV") you shall submit to DEQ a written response detailing the specific actions taken, why such actions are sufficient to prevent recurrence of the cited violation(s), and provide a written explanation why you should not be fined for the violation(s) and discharge(s) cited herein.

DEQ will re-inspect the facility approximately fifteen (15) days after you receive this NOV. Please be advised that failure to comply with this Notice or to submit a response to this NOV within fifteen (15) days of receipt will result in further enforcement, including, but not limited to, penalties and injunctive relief.

If you have any questions about the requirements of this Notice, or if you believe the violation(s) has/have been cited in error, feel free to contact Elizabeth Denning, DEQ Engineer Intern, at (405) 702-6100. Please address all written correspondence to the address listed on the letterhead and reference NOV No. 17-ECLS-NOV-069. Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Richard McDaniel". The signature is written in a cursive style with a large, looped "D" at the end.

Richard McDaniel, Division Director  
Environmental Complaints and Local Services Division

cc: Jessica Tritchler, ECLS  
Enforcement File, Central Records



**OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY  
ENVIRONMENTAL COMPLAINTS AND LOCAL SERVICES DIVISION**

**IN THE MATTER OF:  
Pittsburg Co. RW&SD #20**

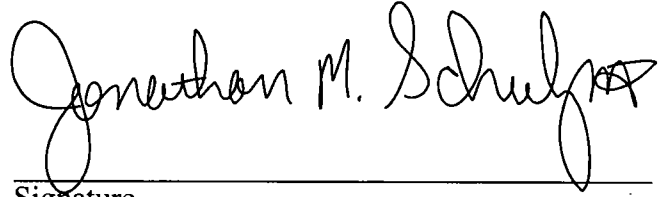
**RESPONDENT,**

**COMPLAINT NO. 151481**

**CASE NO. 17-ECLS-NOV-069**

**CERTIFICATE OF PERSONAL SERVICE**

This is to certify that on 11/2/17, that I, JONATHAN SCHULZ, personally served a Notice of Violation, upon Tania Kerney at the Carlton Landing Main Office in Carlton Landing, OK.

  
\_\_\_\_\_  
Signature